



# MINUTES

## Charlotte County Board of Zoning Appeals

Wednesday, August 12, 2020 9:00 a.m. - Room 119

Charlotte County Administration Center  
18500 Murdock Circle, Port Charlotte, FL 33948-1094

(These minutes are not official until they have been approved by the Charlotte County Board of Zoning Appeals)

### **Board Member:**

Steve Vieira, Secretary  
William Abbatematteo, Vice-Chair  
Larry Fix  
Blair McVety, Chair  
John Doner

### **Staff:**

Shaun Cullinan, Planning/Zoning Official  
Thomas David, Asst. Co. Attorney  
Stacy Bjordahl, Asst. Co. Attorney  
Ken Quillen, AICP, Sr Planner  
Elizabeth Nocheck, Sr. Planner  
Diane Clim - Recorder

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### **I. Call to Order**

Chair McVety called the August 12, 2020 meeting of the Board of Zoning Appeals to order at 9:00 a.m.

### **II. Pledge of Allegiance**

Chair McVety led the members and the audience in reciting the Pledge of Allegiance.

### **III. Roll Call**

Roll call was taken; a quorum was present.

### **IV. Swearing In of Those Giving Testimony**

Diane Clim swore in all persons who wished to provide testimony.

### **V. Approval of Minutes**

**ACTION:** A motion was presented by Mr. Fix and seconded by Mr. Abbatematteo to approve the minutes of the July 8, 2020 meeting of the Board of Zoning Appeals which passed with a unanimous vote.

### **VI. Disclosure Statements**

Ex-parte forms indicating site visits concerning the petitions being presented before the August 12, 2020 Board of Zoning Appeals meeting were submitted.

### **VII. Introduction of Staff/Comments**

Chair McVety introduced staff. Shaun Cullinan, Planning & Zoning Director, read the Zoning rules, Asst. County Attorney David and Chair McVety made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

**VIII. New Business**

***The following petitions were advertised on July 28, 2020: SE-20-022, SE-20-023 and SE-20-24***

**SE-20-022**

Ruta Vardys, agent for Charlotte County Utilities Department, is requesting a modification of an existing special exception to allow revisions and expansions to existing essential service facilities located in the Agriculture (AG) zoning district. The property address is 17430 and 17460 Burnt Store Road, Punta Gorda, and is described as Parcels P4-3, and P5, located in Section 32, Township 42 South, Range 23 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

**Applicant Presentation**

**Ruta Vardys, agent for Charlotte Co. Utilities department, said she was sworn in.** Ms. Vardys introduced Mitch Chavaroli, who is their consultant. They agree with the recommendations of the staff report, although they are asking about the buffers, if maybe the southern edge can be changed. It is abutting conservation lands and a 60 foot easement. Also, on the southeast boundary, there are wetlands. We have concerns about a buffer to meet the code because of permitting issues related to wetlands.

**Mr. McVety** asked if that southern area would be cleared?

**Ms. Vardys** said it may be cleared but she asked Mr. Chavaroli to explain.

**Mitch Chavaroli** said the area in the wetlands (the southeast corner), the intent is to not get into the wetlands to do any clearing or damage to the wetlands. The 60 foot easement is an ingress/egress easement that you can see, we propose an access road north of that ingress/egress easement. We would like to keep natural vegetation but this needs to be a secured site.

**Mr. Doner** asked about reverse osmosis generating waste products. He asked about the chlorine contact basin. Are there any risks to the wildlife regarding escaped chlorine.

**Mr. Chavaroli** said they are proposing a water reclamation. This is treating domestic sewage not the waste product from the office facility. The chlorine contact basin, the chemical storage is sodium hypochlorite which is used for disinfection and that is used at the existing facility.

***Chair McVety opened the meeting to Public Hearing.***

**Public Input**

No one spoke for or against this request.

***There being no further requests to speak for or against the petition, Mr. Fix moved to close the public hearing, seconded by Mr. Abbatematteo. The public hearing was closed with a unanimous vote.***

Elizabeth Nocheck presented the recommended conditions for the petition.

**Board Member Comments and Questions**

**Mr. McVety** asked what is your comment on the buffer in the back?

**Ms. Nocheck** said this is difficult to determine because we have not seen a site plan yet.

**Mr. Cullinan, Planning & Zoning Official**, said this is part of the Burnt Store area plan. It is intended to have more development out this area. Our concern is the access to this site by the southern portion. We can work with staff when they come in with the site plan for this site.

**Assistant County Attorney Stacy Bjordahl, said she was sworn in.** Ms. Bjordahl represents staff. She asked Mr. Cullinan to provide some clarifying testimony, as to what type of administrative discretion he may have during the site plan review process and if there is any provision in the Code to provide for exemptions for this type of use. If not, the proper approach may be that they come back in the future for a variance because this is a Code requirement.

**Mr. Cullinan** said wetland areas, because they contain natural vegetation, we have requirements for the sizes, for shrubbery, and trees. Typically, wetlands, due to their natural vegetation, meet the County requirements. There is no exemption for County projects. There are some various remedies Administratively for things such as site triangles, if there are mitigating circumstances, sometimes abutting conservation if there are areas with distance requirements. Sometimes butting I-75 because of the huge distance before having any other type of use. We can work with them when the site plan comes in.

***ACTION: A motion was presented by William Abbatematteo and seconded by John Doner that Petition SE-20-022 be APPROVED based on the Community Development Staff Report dated August 5, 2020, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with four conditions recommended by staff.***

***Motion was approved with a unanimous vote with the following four conditions:***

1. This special exception, as approved by the Board of Zoning Appeals, is to modify an existing special exception (SE-76-85) to allow revisions and expansions to existing essential service facilities located in the Agriculture (AG) zoning district, generally as proposed in the application and as shown on the Concept Plan labeled Exhibit E and extends only to the land included in the site plan and legal description as submitted with this application. The Concept Plan submitted as part of this application is for illustrative purposes only.
2. The applicant shall obtain all necessary permits and approvals as applicable to this development, including but not limited to Site Plan Review, wetland and environmental review, stormwater management, vegetation removal, fencing, and landscape plan approval.
3. As shown on the Concept Plan (Exhibit E), a minimum of a Type B landscape buffer is required along the north, south, and east property lines of Parcel P5. All buffers and landscaping shall be installed prior to the Certificate of Occupancy being granted.
4. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

**SE-20-023**

Harry Taylor, agent for Greg Duke, is requesting a special exception to allow outdoor storage of boats, travel trailers and motor vehicles, including recreational vehicles and campers in the Commercial General (CG) zoning district. The property address is 11195 – 11225 Tamiami Trail, Punta Gorda, and is described as the Southeasterly 75 feet of Lot 17B and Lots 18B, 19B, 20B, 21B and 22B, of South Punta Gorda Heights First Addition, located in Section 34, Township 41 South, Range 23 East.

Ken Quillen read into the record the staff report and staff findings for the petition.

**Applicant Presentation**

**Harry Taylor, P.E., agent for the applicant, said he was sworn in.** Mr. Taylor said they agree with the conditions in the staff report. He also has a few landscape questions but will work that out with staff. There are electrical lines on the backside of the property.

***Chair McVety opened the meeting to Public Hearing.***

**Public Input**

No one spoke for or against this request.

***There being no further requests to speak for or against the petition, Mr. Fix moved to close the public hearing, seconded by Mr. Abbatematteo. The public hearing was closed with a unanimous vote.***

Ken Quillen presented the recommended conditions for the petition.

**Board Member Comments and Questions**

**Mr. Abbatematteo** asked in the report, it goes into the concerns of quality of life and visual image. You mention many of the boats and recreational vehicles are 12 to 13 feet high, and they cannot be easily screened with buffering and a 6 foot high fence. Staff recommends these items be hidden from the public when possible. Item 7 does establish a 6 foot buffer. My question is – if we adopted this including the report, does that recommendation in the report carry weight as it would if it was a condition?

**Mr. David** said the condition governs.

**Mr. Abbatematteo** said in the analysis, the staff recommends they be hidden and acknowledge the 6 foot barrier would not be sufficient. I am wondering why it was not included as a condition.

**Mr. Cullinan** said we have looked at that situation like going higher – like an 8 foot fence or wall. What we found in practicality, it truly doesn't work. He gave an example of one where the fence was on top of a berm and it does not look good.

***ACTION: A motion was presented by Larry Fix and seconded by William Abbatematteo that Petition SE-20-023 be APPROVED based on the Community Development Staff Report dated August 5, 2020, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with eight conditions recommended by staff.***

***Motion was approved with a unanimous vote with the following eight conditions:***

1. The special exception, as approved by the Board of Zoning Appeals, is to allow outdoor storage with an on-site office, which extends only to the lands included in the Site Plans and legal description submitted with this application.
2. The Concept Plan submitted by the applicant, as part of the petition, is for illustrative purposes only. All applicable regulations of County Code shall apply to this development, including preliminary and final Site Plan Review and approvals.
3. The on-site office must be maintained as part of this development. Outdoor storage may not be established until all improvements are completed and a Certificate of Occupancy has been issued.
4. The areas allowed to be used for outdoor storage shall only be the areas identified on the final approved Site Plan.
5. The outdoor storage areas may only be used for storage of licensed and operable recreational vehicles, including but not limited to boats, travel trailers, and motor vehicles, including recreational vehicles and campers.
6. Dead storage of materials or equipment, cars, trucks, or vans, or like items, shall not be permitted.
7. A type "D" Landscape Buffer with a six-foot high sight-obscuring fence or wall, shall be constructed and planted along all property lines. The six-foot high fence or wall may be eliminated from the required landscape buffer where there is a building located between the property line and the outdoor storage area.
8. This Special Exception is granted for a term of three years from the date it receives approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
9. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.

**SE-20-024**

Robert Pritt, agent for Milestone Communications, is requesting a special exception to allow a 125-foot high communications tower in the Residential Single Family-3.5 (RSF3-5) zoning district. The property address is 1252 Friar Street, Port Charlotte, and is described as Tract "A", of Block 2675, of Port Charlotte Subdivision, sub-section 48, located in Section 09, Township 40 South, Range 21 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

**Ms. Nocheck** said she received a letter for this item.

**Asst. Co. David** said it would be Composite Exhibit #1. After Ms. Nocheck gave her staff report, **Atty David** read into the record – In a special exception proceeding the allocations of burdens are as follows: Once a petitioner meets the initial burden of showing that the petitioners application meets the statutory criteria for granting such exceptions, the burden is upon the opposing party to demonstrate by competent, substantial evidence presented at the hearing and made part of the record that the special

exception requested by the petitioner does not meet such standards and is in fact adverse to the public interest. In order for the agency to deny a permitted special exception application, the party opposing the application, that is either the agency itself or a third party, must show by competence substantial evidence that the proposed exception does not meet the published criteria. Unless the Zoning authority carries its burden, the application must be granted. An applicant seeking special exception and unusual uses needs to demonstrate to the decision making body that 1) the proposal is consistent with that County's land use plan, the uses are specifically authorized as special exceptions and unusual uses in the zoning district, and request to meet with the applicable zoning code and standards of review. Once the petitioner demonstrates compliance with the conditions set forth in the zoning code, there is a presumption that the use applied for is therefore permitted. One additional point, the Federal Code also regulates the siting of these facilities and it states "no state or local government or instrumentality thereof, may regulate the placement, construction, and modification of personal wireless services on the bases of environmental effects of radio-frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions." Re: 47 USC 332 (c) 7b4

#### **Applicant Presentation**

**Robert Pritt, agent for Milestone Communications, said he was sworn in.** Mr. Pritt said this is about the fourth communication facility that we've asked to put in on behalf of the Charlotte County School Board. He brought with him William F. Compton III, he is a radio frequency engineer for Verizon, and also Darwin Feliz de Jesus, also a radio frequency engineer. He handed in their credentials. Mr. Pritt said they agree with the staff report findings and conditions. He said they will go over a brief power point presentation. Most of it is the same as what is in the staff report. His client wishes to install a 125 foot communication tower. This is needed by Verizon to improve coverage. Christopher Harold is also here. He is the Vice-President at Milestone and project manager.

**Christopher Harold, Milestone Communications Vice-President, said he was sworn in.** Mr. Harold said they are proposing a new tower at the 1252 Friar Street parcel for Verizon Wireless. He discussed the 20 year history with the communication towers. They try and choose a location with minimize visual impact and avoid any interference with school operations. He discussed the wireless devices briefly.

**William Compton, said he was sworn in.** Mr. Compton said a 50 foot tower which is allowed as a use right, would need to have 50 of them to equal this one 125 foot tower. He went through the power point presentation showing how the tower will look in the area, compared to the heights of the trees out there.

**Darwin Feliz de Jesus, said he was sworn in.** Mr. de Jesus said they mailed out notifications to 490 households in the area. They held a community meeting in person with a virtual format as well. They had 2 community members attend in person as well as 3 on line. Some school representatives also attended. The site, if approved, will go through a permitting and site plan review process. After that, construction will take about 4 to 6 weeks. That would be overseen on site by Milestone director of construction. After that, Milestone will visit the site 4 times a year to maintain the site (landscaping, access road and the compound itself). Carriers of Verizon will also visit the site 2 to 4 times a year to maintain their equipment as well. They flew a drone at the location of the height of the tower. That is where they got these pictures. He would be happy to answer any questions.

**Steve Martin, FA licensed UAV operator, contracted by Milestone, who took the drone photos, said he was sworn in.** He briefly explained how he took the drone photos with a software that determines visibility.

**Jerry Olivo, Charlotte County Public Schools**, said he was sworn in. **Mr. Olivo** said on a 14 acre site we can build an elementary school or a K-8. That is the plans for the future as the area develops.

**Mr. McVety** said I assume you do this for income for the school board?

**Mr. Olivo** said absolutely. When the first shovel goes in the ground, they cut a \$25,000 check that goes directly into our operational budget. As soon as Verizon goes live, we start to receive residuals monthly. The other 3 or 4 tenants, that would be the same thing. Once the tower is at full capacity, it could be about \$80,000 plus a year for the budget, which goes into the classroom.

**Mr. Nocheck** said she received a dozen phone calls about this item. Many are out of state and could not travel with Covid-19 but wanted the Board to know there were many against this petition.

**Chair McVety opened the meeting to Public Hearing.**

#### **Public Input**

**Julia Herzog, who lives in the area, said she was sworn in.** **Ms. Herzog** said she would like to see the tower disguised as a tree. She discussed a few articles she brought in and gave them to the Board to look at and be part of the record.

***There being no further requests to speak for or against the petition, Mr. Fix moved to close the public hearing, seconded by Mr. Abbatematteo. The public hearing was closed with a unanimous vote.***

Elizabeth Nocheck presented the recommended conditions for the petition.

**Mr. Pritt** said it is a nice idea to want to make the tower look like a tree, but if that is not a good idea. He asked Mr. Compton to explain.

**Mr. Compton** said there are newer technology issues with building trees and other things to cover the tower. As soon as you start putting antenna's and radio gears on top of the tower, any type of structure around the poles are nightmares. It will cut back on the output from the antenna's and gear. Also, this generates heat and there could be issues. There cannot be any items (branches) around these item, it will cause limitations. We cannot even paint the towers.

#### **Board Member Comments and Questions**

**Mr. Abbatematteo** asked to make it blend in aesthetically, can the pole be painted green on the bottom and then on top blue, like the sky?

**Mr. Compton** said that is a possibility. Water tanks do get painted blue, but if the sky is gray, it still shows.

***ACTION: A motion was presented by Larry Fix and seconded by John Doner that Petition SE-20-024 be APPROVED based on the Community Development Staff Report dated August 5, 2020, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with six conditions recommended by staff.***

***Motion was approved with a unanimous vote with the following six conditions:***

1. This special exception, as approved by the Board of Zoning Appeals, is to allow a 125-foot tall monopole communications tower, with a 2-foot lightning rod, external antennae attachments, and 2,500-square foot equipment compound, located in the Residential Single-family-3.5 (RSF-3.5) zoning district, generally as proposed in the application and as shown on the Concept Site Plan labeled Exhibit F, and Compound Plan, labeled Exhibit G, and extends only to the land included in the site plan and legal description as submitted with this application. The Concept Plans submitted as part of this application are for illustrative purposes only.
2. The total overall height for all elements of the communications tower, including external antennae attachments and lightning rod, shall not exceed 127 feet.
3. The applicant shall obtain all necessary permits and approvals as applicable to this development, including but not limited to Site Plan Review, environmental review, stormwater management, vegetation removal, fencing, and landscape plan approval.
4. As shown on the Concept Landscape Plan (Exhibit J), a minimum of a Type D landscape buffer is required around the perimeter of the equipment compound.
5. This Special Exception is granted for a term of three (3) years from the date it receives approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
6. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

IX. **Public Comments - None**

X. **Staff Comments –**

Mr. Cullinan said Mr. Quillen is retiring. He thanked him for all his service with the BZA. We have 4 items for next month.

XI. **Member Comments – None**

XII. **Next Meeting**

*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, September 9, 2020 at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 10:54 a.m.

Respectfully submitted,  
Diane Clim, Recorder  
/dlc

  
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Blair McVety, Chair

Approval Date: 9-9-2020